

RULES OF PROCEDURE

Basis and Purpose

These rules establish procedures for the Historic Preservation Commission (hereinafter referred to as “the Commission”) in disposing of applications for certificates of approval for construction, alteration, reconstruction, rehabilitation, restoration, moving, or demolition of an individually designated landmark, site, or structure or of a site or structure within a designated historic district. The rules implement the city's historic preservation ordinance (Annapolis City Code § 21.56.010 through 21.56.220 (2005)) adopted pursuant to the authority granted by the state historic area zoning enabling act (1963 Md. Laws Ch. 874, S.B. 413, now codified as Land Use Article, annotated code of Maryland, as amended, and are supplemental to and interpretative of these statutory provisions.

Coverage

1.1 Before a person may undertake the construction, alteration, reconstruction, rehabilitation, restoration, moving, or demolition of a designated landmark, site, or structure, or a site or structure within a designated historic district, if any exterior change is made to any exterior feature or surface, which would affect the historic, archaeological, architectural, or cultural significance of a site or structure within a designated district or a designated landmark, site or structure, and is visible or intended to be visible from a public way, the person, individual, firm, or corporation proposing to make the construction or change shall file an application for a certificate of approval with the Commission for permission to construct, alter,

rehabilitate, restore, reconstruct, move, or demolish the landmark, site, or structure.

Maintenance which does not alter the exterior fabric or features of a landmark, site or structure and has no material effect on the historical, archaeological, architectural or cultural significance of the historical landmark, site or structure is exempt from Commission review. Maintenance must be documented as follows:

- 1) Before a building permit describing the maintenance work is approved by the HPC staff, the applicant must agree to submit before and after photographs for the record as well as material samples to the Office of Historic Preservation, Department of Planning and Zoning. Photographs must be at least 4” by 6” color prints or digital and in sufficient detail to demonstrate that no change occurred. Such maintenance work shall at a minimum, maintain the integrity of the resource through replication and/or through replacement in-kind of materials.
- 2) Routine maintenance that does not involve replacing more than 50 square feet of material or does not exceed \$250 of materials, whichever is least, does not require written administrative approval.

The state enabling act and the city ordinance covers the preservation of sites, structures, and districts of historical, cultural, archaeological, or architectural significance together with their appurtenances and environmental settings.

1.2 The Annapolis Historic District is defined verbally by § 21.56.030 of the city ordinance. The following map diagrams the definition (see attached map).

Applications for Certificate of Approval

2.1 An application for a certificate of approval must be filed with the historic preservation staff to the Commission in the Planning and Zoning Department at 145 Gorman

Street, 3rd Floor according to the schedule for application deadlines published at the beginning of every calendar year..The applicant or their representative is required to attend the hearing at which the application will be addressed by the Commission. The Chief of Historic Preservation shall determine when an application is sufficiently complete to proceed and shall inform that applicant upon that determination. If the application is determined to be incomplete, the Chief shall advise the applicant of the necessary information that remains outstanding and provide the applicant with the opportunity to amend the application. The historic preservation staff will make every reasonable effort to effect a timely cure, but the responsibility for filing a complete application in a timely fashion is the applicant's.

Applications may be rejected and returned to the applicant(s) if:

(a) Planning and Zoning Department rules that the project cannot be authorized because of code or zoning restrictions;

(b) the application does not include all the information required for commission review;
or

(c) an outstanding historic preservation ordinance violation on the property has not been abated.

The applicant has the right to appeal the determination of an application as incomplete and present it to the full Commission for a ruling.

2.2 Once a complete and timely application is filed and date-stamped by the historic preservation staff, the Commission shall have forty-five days within which to act upon it. If the Commission fails to act upon an application within the forty-five day period, the application shall be deemed approved, and the certificate of approval shall be issued, unless the applicant and the Commission shall have agreed upon an extension of the period and the applicant waives

their right to a final decision within 45 days or the application has been withdrawn.

2.3 A completed application shall consist of the following:

(a) Application for certificate of approval (obtainable from the historic preservation staff in the Planning and Zoning Department or the City of Annapolis website);

(b) As required building permit application, sign application, fence application, curb cut application, application for demolition, and/or application for tree removal;

(c) Detailed drawings and plans or permissible substitutes (see application instructions) of the proposed alteration or improvement;

(d) Photographs clearly showing the building and additional photographs showing the section(s) to be altered;

(e) A site plan to scale indicating property lines and lot dimensions, adjacent streets and curb cuts, existing structures and locations for all existing and proposed exterior signs; and

(f) Written concurrence of the holder of the easement with the projected action, if applicable.

For more detailed information, see the instructions available from the historic preservation staff in the Planning and Zoning Department.

2.4 At least eighteen days before the hearing, the completed applications will be made available for public inspection.

2.5 It is not necessary to file written comments in order to be heard at the hearing, but the Commission's staff, the Planning and Zoning Department, and the Department of Neighborhood and Environmental Programs will file written comments. Other public interest groups may file written comments

2.6 Any applicant who wishes to amend an application after review of the written

comments may do so before the hearing.

For various reasons, applicants may appear at hearings with modified plans, usually in answer to previously received comments on their project. In cases where the modifications are minor, the Commission may accept the change as an amendment to the application. In cases of major change, the modified application will be continued and become an item for a future month's agenda. The choice will be made at the meeting at the discretion of the Commission without public debate on the issue.

1) Minor revisions would include such matters as additional architectural specification sheets, change in materials as required by reviewing agencies.

2) Major revisions would include such matters as in elevations or materials that have not been stipulated by reviewing agencies.

2.7 Historic preservation staff is authorized by the Commission to review some improvements, as outlined in the Historic Preservation Commission Administrative Approval Guidelines attached to and part of this document. The administrative approval process shall include the following:

(a) Applications for administrative approval shall be filed with historic preservation staff.

(b) A completed application for administrative approval shall include a description of the work, drawings or acceptable substitutes, photographs, a site plan, and a letter of concurrence from easement holder, if applicable.

(c) If the proposed work meets the attached guidelines, an administrative certificate of approval shall be issued to the applicant immediately following historic preservation staff review.

(d) Historic Preservation Commission staff shall submit a list of administrative approvals

quarterly.

Hearings

3.1 The Commission shall hold a public hearing on every application for a certificate of approval except as allowed under 2.7 of these rules, and a record of every such hearing, including the application and the decision and other opinions, if any, shall be maintained on file for public inspection.

3.2 At the public hearing, the applicant and all other interested persons and organizations shall be afforded the opportunity to introduce evidence and present testimony under oath and to present legal argument. Individuals and/or organizations with standing related to a specific application may cross examine the applicant, staff and any other witnesses presenting testimony. The Commission may ask questions of any participant in the hearing at any time. The applicant has the burden of proof and shall produce sufficient evidence for the commission to conclude the standards have been met. If insufficient evidence is presented, the application must be denied. If conflicting evidence is present, the board must determine which facts it believes are correct.

3.3 Public hearings to dispose of applications for certificate of approval shall be held on the second Tuesday of each month, at 7:30 p.m., in the City Council Chamber on the second floor of the Municipal Building at 160 Duke of Gloucester Street. Public notice of these hearings shall be posted in the Municipal Building and published in The Capital seven days in advance. The notice shall specify the name of the applicant, the address of the structure, and a brief description of the work for which approval is sought. Additionally, a sign indicating that a certificate of approval or an amendment to a previously approved certificate of approval is sought and stating the date and time of the hearing shall be posted on the property by the

applicant at least fifteen days prior to the hearing and shall be removed by the applicant within seven days following the hearing.

3.4 The Chair may schedule special or emergency hearings on other days, at other times, or in other places, upon reasonable public notice.

3.5 An applicant may request a special or emergency hearing by specifying the good cause therefore. Generally, good cause in the case of an applicant's request shall involve some hardship from the delay incident to the regular scheduling.

3.6 The agenda for each session of hearings shall be set by the Chair.

3.7 A quorum, without which no hearing may be held, shall consist of four members, and question put to a vote shall be decided by a majority of the members present.

3.8 At hearings, the order of procedure shall ordinarily be as follows:

(a) The applicant, or the applicant's representative, shall present the application, including such evidence and argument as is necessary to support the application. The Chair shall enter into the record any documents received in relation to the application and poll the Commission on site visits for the record. The Chair may then inquire if there are any concerns from the Commission as to completeness of the application as currently in the record. Staff may present arguments for or against a determination of completeness. By majority vote, the Commission shall determine if the application is complete. If the application is determined to be incomplete, a list of required additional material and a date certain for submissions and a new hearing are set. If this is the initial hearing the applicant is required to waive the 45 day rule.

The Chair shall impose reasonable time limitations on argument, and, although formal rules of evidence shall not apply, the Chair may also impose reasonable limitations on the introduction of evidence.

(c) The City's Chief of Historic Preservation shall present the Planning and Zoning Department's determination of code compliance, an assessment of the significance of the property based on research and the National Register criteria, and Compliance with the Annapolis Historic District Design Manual (most recent edition) and The Secretary of the Interior's Standards for the Rehabilitation of Historic Properties, as well any other professional review pertinent to the application.

(d) Members of the public, including but not limited to representatives of architectural and historical organizations, and of organizations dedicated to historic preservation, shall present their comments. Repetitious testimony is permitted but not encouraged. In the regular course of a hearing with significant public interest and/or comment, the Chair shall request that proponents of an applicant present first, then anyone wishing to speak on the application and finally, opponents of an application to speak.

(e) Commission members may ask questions both during and after testimony, as appropriate.

(f) If there is a party with standing in opposition to an application, they shall be allowed to cross examine the applicant, applicant representatives, applicant witnesses, City staff and/or other witnesses. The Chair has the responsibility to ensure that testimony and cross examinations are material and substantial to the application, and to the findings of fact and conclusions of law that the Commission must determine.

(f) At the conclusion of all testimony and questioning, the Commission may dispose of the application, by motion to disapprove or approve, with or without modifications, or, subject to the forty-five day limitation or agreement of the applicant, may carry the application forward for

further hearing or for further deliberations by the Commission members.

(g) The city ordinance provides that, in the event an application is rejected, no new application for the same or similar work may be filed for a year. The Commission attempts to avoid outright rejection of an application. If it appears during the course of a hearing that the application will not be approved as submitted, the Commission will ordinarily attempt to identify modifications which will bring the application into compliance and will in that case suggest a continuation of the application for further work. If an application is continued, all testimony related to the application is preserved for the record. If it does not appear feasible to amend the application the Commission will suggest that the applicant voluntarily withdraw the application.

The Chair may deviate from this order of procedure at hearings.

3.9 In an effort to expedite routine items before the Commission, the Commission hereby establishes a "Consent Docket" procedure as follows:

(a) All items of Business which have received the recommendation of approval or approval with minor modifications from the Commission's technical advisors shall be considered eligible for inclusion on the Consent Docket.

(b) The Chair shall poll the Commission prior to the meeting to seek concurrence of items eligible for the Consent Docket.

(c) All items thus eligible shall be placed on the Consent Docket by motion of any member of the Commission, and duly seconded.

(d) The Commission shall then take public comment on the Consent Docket. Any item with comments, questions, or opposition shall automatically be removed from the Consent Docket and heard in regular order.

(e) Any items remaining on the Consent Docket would then be voted on by the

Commission, after an appropriate motion for approval by any member of the Commission, and duly seconded.

(f) If amendments or conditions are proposed on Consent Docket items, applicants must agree to amendments or conditions to receive Consent Docket approval.

3.10 A pre-application conference may be scheduled to provide an applicant with the opportunity for preliminary review of a project by the Commission prior to submitting a complete application for a certificate of approval. The procedure shall be as follows:

(a) Any prospective applicant may request a conference with the Commission prior to submitting an application. Pre-application conferences may be scheduled for the administrative meeting on the fourth Thursday of the month; however, at the discretion of the Chair, a prospective applicant may appear before the Commission following the regularly scheduled public hearing on the second Tuesday of the month.

(b) It is strongly suggested that materials be distributed to the Commission in advance of the pre-application since such materials shall assist the commissioners in comprehending the issues related to the feasibility of the project and such broader issues as the scale and mass of the proposal, its impact on the streetscape, and the effect on the historic fabric and form of the resource.

(c) Following the presentation, the Chair shall first elicit a response from each commissioner present regarding the viability or acceptability of the proposal. The Chair or a commission member may solicit the opinion of staff, consultant or public following the commissioners' response. The comments made by the Historic Preservation Commission members at a pre-application meeting are in no way to be interpreted as an approval of the projects before them. Absence of comment on any aspect of the presentations does not indicate

acceptance. The pre-application meeting is solely an accommodation for the applicant.

3.11 Reconsideration: An applicant may request the HPC reconsider their decision of denial of a COA for two reasons: assertion of economic hardship resulting from the denial or by invoking the special consideration clause of Section 21.56.060 Section E.

(a) No later than 10 days after the date of the vote to deny the COA, an applicant may file a written request for reconsideration of a decision of the HPC. The request shall state fully all grounds for reconsideration and shall be filed with the Department of Planning and Zoning, either personally or by first class mail, postage prepaid. If by mail, the request, to be considered timely, shall be received by the Department of Planning and Zoning within the 10 day period.

(b) An applicant shall, by first class mail, postage prepaid, serve a copy of a request for reconsideration on all persons who were parties at the public hearing on the application. The request for reconsideration shall contain a certificate of service to this effect.

(c) An applicant shall submit all evidence related to the claim of economic hardship or special consideration no later than 45 days after the date of the vote of denial. The applicant shall use the evidentiary check list approved by the HPC as a guide to the information necessary to submit to sustain a claim of economic hardship.

(d) The HPC shall hold a public hearing on a request for reconsideration within 30 days of the submission of all materials related to section 3.11 (c) above. The HPC may question Planning and Zoning staff or the applicant, take testimony, and receive documents into evidence. At this hearing the

HPC will decide if there is sufficient evidence to warrant reconsideration and specifically what portion of the denied application may be reconsidered. The HPC may grant one 30 day extension at the evidentiary hearing to the applicant to gather additional information for submission for reconsideration. If the applicant does not provide sufficient information within the time frame, the request for reconsideration will be denied.

3.12 If the HPC grants a request for reconsideration it shall schedule a public hearing only on the matters to be reconsidered within 45 days of the date of the vote to reconsider.

3.13 In addition to general public notice, the Planning and Zoning staff shall give notice of the public hearing to all members of the general public who became parties at the public hearing on the application at least 15 days in advance of the hearing.

3.14 The filing of a request for reconsideration and any action of the HPC thereon, shall not toll the period to note an appeal from the vote on the original application.

Standards

- 4.1 In reviewing applications, the Commission is required to give consideration to:
- (a) the historic, cultural, archaeological, or architectural significance of the landmark, site, or structure and its relationship to the historic, cultural, archaeological, or architectural significance of the surrounding area;
 - (b) the relationship of the exterior architectural features of a landmark, site, or structure to the remainder of the landmark, site or structure and to the surrounding area;
 - (c) the general compatibility of proposed exterior design, scale, proportion, arrangement,

texture, and materials to the landmark, site, or structure and to the surrounding area;

(d) compliance with The Secretary of the Interior's Standards for the Rehabilitation of Historic Properties; and consistent with the intent and principles of the Annapolis Historic District Design Manual(most recent edition)which is more commonly known as the "HPC Design Guidelines."

(e) any other factors including aesthetic factors which the Commission deems to be pertinent.

4.2 The Commission shall be strict in its judgment of plans for landmarks, sites or structures determined by research to be of historic, cultural, archaeological, or architectural significance. The Commission shall be lenient in its judgment of plans for sites or structures of little historic, cultural, archaeological, or architectural significance, or of plans involving new construction, unless in the Commission's judgment such plans would seriously impair the historic, cultural, archaeological, or architectural significance of surrounding landmarks, sites or structures.

4.3 Important structures are subject to the following special standards.

(a) If an application is submitted for construction, reconstruction or alterations affecting a landmark, site or the exterior of a structure, or for the moving or demolition of a structure, the preservation of which the Commission considers to be of unusual importance to the city, state, or nation, the Commission shall attempt to formulate an economically feasible plan with the owner(s) of the site or structure for the preservation of the landmark, site or structure. If no economically feasible plan can be formulated, the Commission shall have ninety days from the time it concludes that no economically feasible plan can be formulated to negotiate with the owner(s) and other parties in an effort to find a means of preserving the landmark, site or

structure. Unless in these circumstances the Commission is satisfied that the proposed construction, alteration, or reconstruction will not materially impair the historic, cultural, archaeological, or architectural significance of the landmark, site or structure, the Commission shall reject the application, filing a copy of its rejection with the Department of Neighborhood and Environmental Programs.

(b) In the case of a landmark, site or structure considered to be valuable for its historic, cultural, archaeological, or architectural significance, the Commission may approve the proposed construction, reconstruction, alteration, moving, or demolition despite the provisions of (a) above if (1) the landmark, site or structure is a deterrent to a major improvement program which will be of substantial benefit to the City; (2) retention of the landmark, site or structure would cause undue financial hardship to the owner; or (3) retention of the landmark, site, or structure would not be in the interests of a majority of persons in the city.

Decisions and Opinions

5.1 Unanimous unopposed decisions of the Commission shall be reflected in the minutes as such and are not required to be memorialized in any written decision or opinion.

5.2 In cases where the decision is not unanimous, the minutes shall reflect the votes and abstentions of individual members of the Commission.

5.3 In the case of disapproval or of approval over public opposition or despite dissent within the Commission, or otherwise in the Chair's discretion, the Chair shall designate a member of the Commission from among the majority to write an opinion within thirty days explaining the factual and legal basis for the Commission's decision, and any such opinion approved by majority vote of those members who heard the application shall be the decision of the Commission for purposes of review.

5.4 Any member of the Commission may write an opinion concurring, dissenting, or merely doubting without reaching a conclusion, and any and all such opinions shall be made a part of the record of the Commission's decision.

Violations

6.1 Any person who violates § 21.56.120 of the Annapolis City Code, by making an unapproved change to a landmark, site or structure in the historic district, shall be guilty of a municipal infraction under § 1.20.010-1.20.070 of that code and subject to a civil penalty of one hundred dollars for each violation. Each day a violation continues constitutes a separate and repeat offense.

6.2 The Commission shall notify the alleged violator and claim the civil penalties from him or her by way of a citation, delivered by any member or agent of the Commission, or by the building inspector, law enforcement officer, or firefighter.

6.3 Repeat offenders, found in violation on more than one occasion, shall be subject to a civil penalty not to exceed one hundred dollars per violation, provided that, in the case of continuous violation, the violator shall have twenty days after a citation or other written notice is delivered to eliminate the violation before the repeat offender penalty may begin to accrue.

6.4 After a citation is delivered, the accused violator shall have twenty days within which either to cure the violation and pay the penalty claimed or to notify the Commission in writing of his or her intention to stand trial under SS 1.20.050 of the City Code.

6.5 At any time before a court judgment on a citation is issued, the Commission shall have the discretion to waive or compromise any penalties claimed.

6.6 Whether or not a civil penalty is claimed, paid without legal compulsion, or paid under court order, the Commission or the planning and zoning director, through the city attorney,

shall institute appropriate action to prevent, enjoin, abate, or remove any violation.

Conflicts of Interest

7.1 Any member of the Commission who has a conflict of interest or the appearance of such a conflict with respect to an application may not be present or in any other way participate during the hearing on the application, nor may such a member participate in any discussions, deliberations, recommendations, or decision-making with other Commission members concerning that application.

7.2 In the event a member of the Commission is precluded from participation by reason of Rule 7.1, he or she shall announce that he or she is subject to recusal, and the minutes shall reflect the announcement and the absence of the member from the hearing. It is not necessary that a member subject to recusal explain the reasons therefore.

7.3 An applicant or any other member of the public who believes there are grounds for recusal of a member, particularly when said grounds may be unknown to the member, shall make a timely suggestion of recusal in writing before the meeting and shall specify the grounds therefore.

Emergency Stop Work Orders

8.1 This section 8 of the Rules of Procedure is intended to further the purposes set forth in Section 21.56.120 of the City Code and to implement Section 21.56.120 B of the Code which provides "In addition to other remedies and penalties, where there is a violation of this Article, the planning and zoning director, through the city attorney, shall institute appropriate action to prevent, enjoin, abate or remove the violation."

8.2 The Commission believes it is necessary to have a procedure for obtaining

emergency stop work orders on an expedited basis where there is a violation of Article I of Chapter 21.56 of the Code. Without a procedure to quickly stop such violations irreparable injury could result to historic, cultural, archaeological, and architectural values in the historic district.

8.3 In cases where work requiring a certificate of approval has begun without the issuance of the required certificate, any member of the Commission, or any other person authorized by the Commission, who becomes aware of such work shall notify the building inspector of the violation and shall request that a stop work order be issued by the building inspector.

8.4 In cases where a certificate of approval has been issued for a project and the work is not in conformity with the plans approved by the Commission, then the following procedure shall apply:

(a) The Commission Chair or, in the absence of the Chair, the acting Chair or Vice-Chair shall make an initial determination whether there is reasonable cause to believe that a Code violation might exist and whether immediate and substantial injury may result to historic or architectural values unless a stop work order is issued.

(b) If the Chair or, in the absence of the Chair, the acting Chair or Vice-Chair determines that such reasonable cause exists, he or she shall call an emergency meeting of the Commission with advance notice of such meeting being provided to the city attorney.

(c) A reasonable effort shall be made to provide the owner of the subject property with notice of the meeting and a chance to be heard at the meeting.

(d) The Commission shall vote to request the issuance of a stop work order if the Commission determines that a violation exists and that immediate and substantial injury may

result to historic, cultural, archaeological or architectural values unless a stop work order is issued.

(e) In the event that the Commission votes to request a stop work order the Chair, acting Chair, vice-Chair or the commission staff shall immediately so inform both the building inspector and the city attorney and shall request through the city attorney, that a stop work order be immediately issued.

(f) After issuance of a stop work order pursuant to the procedure set forth in this paragraph 8.4 and upon written request of the property owner the Commission shall schedule a special meeting, after public notice as required by Section 21.56.040 of the Code, to take place no more than 12 days after the Commission's receipt of the property owner's written request to consider whether the stop work order should remain in effect.

Amendments

- 9.1 This section 9 of the Rules of Procedure is intended to establish guidance to amend these HPC Rules of Procedure.
- 9.2 These Rules of Procedure shall be amended by a majority vote of all serving members of the HPC at the regular meeting following that at which the proposed change was introduced.
- 9.3 Changes in the Annapolis City Code that relate to the HPC shall become at the time of their adoption by the Mayor and Aldermen amendments to the Bylaws or Rules of Procedure as may be appropriate.
- 9.4 The Commission, by unanimous vote of all serving commission members, may vote to waive the requirement under 9.2 that a proposed change shall be introduced at a regular

meeting and voted on at the next regular meeting.

Amended this 27th day of February 2014 by the Historic Preservation Commission.